

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SWIMC, INC., a Delaware corporation,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 08-084-SLR
	:	
HY-TECH THERMAL SOLUTIONS,	:	
LLC, a limited liability corporation,	:	
	:	
And	:	
	:	
HY-TECH DISTRIBUTORS, INC., a	:	
corporation,	:	
	:	
Defendants.	:	

MOTION TO WITHDRAW AS COUNSEL

COMES NOW, McCarter & English, LLP respectfully requesting, pursuant to Local Rule 83.7, that McCarter & English be permitted to withdraw as counsel for Defendants Hy-Tech Thermal Solutions, LLC and Hy-Tech Distributors, Inc. in the above captioned action. In support of this motion, McCarter & English states as follows:

1. This action was filed by Plaintiff SWIMC Inc. (“Plaintiff”) against Defendants, Hy-Tech Thermal Solutions, LLC and Hy-Tech Distributors, Inc. (collectively the “Defendants”) on February 2, 2008.

2. Defendants retained Hart, Baxley, Daniels & Holton of New York (“Hart Baxley”) to act as primary counsel in this matter. McCarter & English, LLP was contacted by Hart Baxley and, due to the imminent deadlines facing Defendants, agreed to serve as Delaware counsel to ensure that no deadlines were missed by Defendants.

3. While settlement negotiations were attempted, two stipulations extending Defendants’ time to answer were entered on April 1, 2008 and April 28, 2008 and so ordered by Your Honor on April 4, 2008 and April 30, 2008.

4. Defendants, however, have failed to take actions which would allow counsel for Defendants, both Hart Baxley and McCarter & English, to fulfill their obligations as counsel. Specifically, (1) Defendants have failed to sign the engagement letter sent by McCarter & English to Defendants; (2) Defendants have failed to provide information to counsel which is necessary for counsel to be able to effectively represent Defendants; and (3) Defendants have failed to pay the legal fees of counsel.

5. McCarter & English has received no communications, documents or files from Defendants.

6. Defendants actions have severely impaired counsel's ability to represent Defendants in this actions. Accordingly, on May 12, 2008 and May 13, 2008, respectively, Hart Baxley and McCarter & English notified Defendants of their intention to withdraw as counsel.

7. Given Defendants' failure to take steps necessary to their effective representation and failure to sign the engagement letter provided by McCarter & English, McCarter & English is unable to continue this representation in compliance with its legal and ethical obligations.

8. Plaintiff, through its Delaware Counsel, has indicated that it does not oppose this motion and has graciously agreed to a 30 day extension of the date by which Defendants' answer is due. The new deadline for answering the Complaint will be June 26, 2008, which will allow adequate time for Defendants to retain new counsel and answer the Complaint and thus will not be prejudiced.

WHEREFORE, McCarter & English hereby requests that this Honorable Court grant its Motion to Withdraw as Counsel and, given the short time prior until Defendants answer is due, McCarter & English also respectfully requests that the Court grant the thirty (30) day extension

of that deadline agreed to by Plaintiff to enable Defendants to find suitable substitute counsel and to answer the Complaint.

Respectfully submitted

McCARTER & ENGLISH, LLP

/s/ William F. Taylor, Jr.
William F. Taylor, Jr. (DE ID No. 2936)
Renaissance Centre, 8th Floor
405 N. King Street
Wilmington, DE 19801
Phone: (302) 984-6300/Fax: (302)984-6399
wtaylor@mccarter.com

Dated: May 28, 2008

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SWIMC, INC., a Delaware corporation,	:	
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Plaintiff,	:	
	:	
v.	:	C.A. No. 08-084-SLR
	:	
HY-TECH THERMAL SOLUTIONS,	:	
LLC, a limited liability corporation,	:	
	:	
And	:	
	:	
HY-TECH DISTRIBUTORS, INC., a	:	
corporation,	:	
	:	
Defendants.	:	

NOTICE OF MOTION TO WITHDRAW AS COUNSEL

TO:

BY HAND DELIVERY

Kevin J. Mangan, Esq.
WOMBLE, CARLYLE, SANDRIDGE
& RICE, PLLC
222 Delaware Avenue, Suite 1501
Wilmington, DE 19801

BY CERTIFIED MAIL

Hy-Tech Thermal Solutions, LLC and
Hy-Tech Distributors, Inc.
C/O Tony Abruzzese
159 Parkhill Boulevard
W. Melbourne, FL 32904

PLEASE TAKE NOTICE that McCarter & English will hereby present the attached Motion to Withdraw As Counsel at the earliest convenience of Court and Counsel.

McCARTER & ENGLISH, LLP

/s/ William F. Taylor, Jr.

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LLC, a limited liability corporation,	:	
	:	
And	:	
	:	
HY-TECH DISTRIBUTORS, INC., a	:	
corporation,	:	
	:	
Defendants.	:	

ORDER

Having considered McCarter & English, LLP's Motion to Withdraw as Counsel, which Motion is not opposed by Plaintiff, and any responses thereto,

IT IS HEREBY ORDERED this _____ day of _____, 2008 that McCarter & English, LLP is permitted to withdraw as counsel for Defendants Hy-Tech Thermal Solutions, LLC and Hy-Tech Distributors, Inc. in the above-captioned action. McCarter & English, LLP's withdrawal shall be effective upon the signing of this order.

IT IS FURTHER ORDERED that Defendants, Hy-Tech Thermal Solutions, LLC and Hy-Tech Distributors, Inc. are directed to retain substitute counsel promptly.

IT IS FURTHER ORDERED that the time by which Defendants, Hy-Tech Thermal Solutions, LLC and Hy-Tech Distributors, Inc. must answer the Complaint is hereby extended to the 26th day of June, 2008, as agreed to by Plaintiff.

United States District Judge

CERTIFICATE OF SERVICE

I, William F. Taylor, Jr., hereby certify that on May 28, 2008 a true and correct copy of the foregoing **Motion to Withdraw as Counsel** was served upon the following as indicated:

Kevin J. Mangan, Esq.
WOMBLE, CARLYLE, SANDRIDGE
& RICE, PLLC
222 Delaware Avenue, Suite 1501
Wilmington, DE 19801
via Hand Delivery

Hy-Tech Thermal Solutions, LLC and
Hy-Tech Distributors, Inc.
C/O Tony Abruzzese
159 Parkhill Boulevard
W. Melbourne, FL 32904
via Certified Mail

/s/ William F. Taylor, Jr.
William F. Taylor, Jr. (DE ID No. 2936)
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